

ESTTA Tracking number: **ESTTA612185**

Filing date: **06/25/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Ovivo Luxembourg S.a.r.l
Granted to Date of previous extension	06/25/2014
Address	6C Gabriel Lippmann Munsbach, L-5365 LUXEMBOURG

Attorney information	Thomas M. Freiburger P.O. Box 1026 Tiburon, CA 94920 UNITED STATES tfreiburger1@yahoo.com Phone:415-435-0240
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Applicant Information

Application No	85872676	Publication date	02/25/2014
Opposition Filing Date	06/25/2014	Opposition Period Ends	06/25/2014
Applicant	Blue Water Technologies, Inc. 10450 North Airport Drive Hayden, ID 83835 UNITED STATES		

Goods/Services Affected by Opposition

Class 011. First Use: 2012/07/29 First Use In Commerce: 2012/07/29 All goods and services in the class are opposed, namely: Water filtering apparatus; water filters

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ECO-MAT		
Goods/Services	membrane sludge thickening system in wastewater treatment		

Attachments	Notice_Of_Opposition.pdf(150966 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Thomas M. Freiburger/
Name	Thomas M. Freiburger
Date	06/25/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application

Serial No.: 85/872,676
Mark: ECO MAT
Filed: March 11, 2013
Published: February 25, 2014
Int'l Class: 11

Ovivo Luxembourg S.à.r.l,)	
a Luxembourg corporation,)	Opposition No.:
)	
Opposer,)	
v.)	NOTICE OF OPPOSITION
)	
Blue Water Technologies, Inc.,)	
an Idaho corporation,)	
)	
Applicant)	Tiburon, California

Sir:

Opposer Ovivo Luxembourg S.à.r.l, a Luxembourg corporation (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same in accordance with the provisions of §13 of the Lanham Act (15 U.S.C. 1063) and §2(d) of the Lanham Act (15 U.S.C. 1052(d)).

The grounds for opposition are as follows:

1. Opposer has been using said mark since at least 2009 and has been using said mark continuously in interstate commerce since at least 2009.

2. Opposer manufactures, sells, distributes, and advertises various types of wastewater treatment systems and equipment. Opposer utilizes the above-referenced ECO-MAT mark on its products and in advertising to identify them as originating from Opposer. Opposer's ECO-MAT trademark is and since 2009 has been marked directly on Opposer's ECO-MAT product, a membrane sludge thickening system in wastewater treatment.

3. Opposer has developed extensive goodwill with respect to its ECO-MAT trademark. Opposer has expended substantial sums in the advertising and promotion of its products, and by its efforts and its considerable expenditures for promotional activities, Opposer has developed a valuable reputation for its trademarks, including the ECO-MAT trademark.

4. By virtue of its efforts, and the expenditures of considerable sums for promotion of products under its ECO-MAT

trademark, Opposer has gained product recognition through its above-identified ECO-MAT trademark.

5. Opposer's trademark is inherently distinctive and has acquired substantial goodwill and secondary meaning.

6. On March 11, 2013, Blue Water Technologies, Inc. (hereinafter "Applicant"), filed an application to register the mark "ECO MAT" for "water filtering apparatus; water filters" in International Class 11. The application was assigned Serial No. 85/872,676 and proceeded to publication in the Official Gazette of the USPTO on February 25, 2014. Opposer has obtained extensions of time (totaling 90 days) to file opposition against the said application.

7. Opposer is informed and believes that Applicant was aware of Opposer's use of the trademark ECO-MAT for wastewater treatment filtering apparatus prior to Applicant's adoption of ECO MAT for very closely related goods.

8. Opposer is informed and believes that Applicant's ECO MAT mark is likely to confuse Opposer's and Applicant's customers and potential customers, and the public generally.

9. Opposer is informed and believes that Applicant's use of the trademark ECO MAT will dilute the strength of Opposer's trademark by lessening the capacity of Opposer's trademark to identify and distinguish Opposer's goods and services.

10. Opposer has not and does not consent in any way to Applicant's use of the mark referenced herein.

WHEREFORE, Opposer respectfully requests that registration of Applicant's mark under the above-identified application be refused and that this opposition be sustained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Th. M. Freiburger', with a stylized flourish extending from the end.

Dated: June 25, 2014

Thomas M. Freiburger
Reg. No. 27,063
Attorney for Opposer
P.O. Box 1026
Tiburon, California
Telephone: 415-435-0240

Certificate of Mailing by First Class Mail

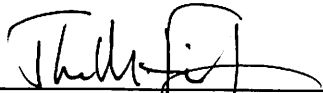
I hereby certify that on June 25, 2014, a true and complete copy of the foregoing **NOTICE OF OPPOSITION** is being electronically filed with:

Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313

It is further certified that on June 25, 2014, the foregoing **NOTICE OF OPPOSITION** is being served by mailing a true and complete copy thereof by first-class mail addressed to:

Jason S. Howell, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101

By



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